in the interest of the common welfare. *Cal. Reduction Co.* v. *Sanitary Co.*, 199 U. S. 306; *Barbier* v. *Connolly*, 113 U. S. 27. Whether or not a particular statute is reasonable must depend, then, on the enormity of the evil and the fitness of such legislation to afford a remedy. *Adams* v. *Tanner*, 244 U. S. 590. It is suggested that a statute imposing liability without fault is very harsh and should be disfavored by the courts. There should be adopted a more reasonable method of enforcing a duty upon the owner of an automobile to keep it safe from negligent drivers. The danger from carelessly driven automobiles would not seem to be so great that a remedy as confiscatory as the one in the principal case is needed. It is submitted that the above statute should be held unconstitutional as being an unreasonable and arbitrary method of accomplishing the purpose of the legislature.

BROKERS—NOT ENTITLED TO COMMISSIONS FOR SALE OF STEAMERS PREVENTED BY WAR SHIPPING STATUTE AND PROCLAMATION.—On January 27, 1917, the plaintiffs, shipbrokers, entered into a contract to sell two steamers for the defendants. A Canadian firm was procured as a buyer, the sale to be subject to its inspection. On February 5, 1917, before the sale was completed, a proclamation was issued by the President, declaring an emergency and calling into effect a statute enacted September 7, 1916, prohibiting the sale of United States registered vessels to foreign owners unless first tendered to the Shipping Board. The Shipping Board declined to permit the sale and the defendant refused to transfer the steamers. In an action to recover commissions, *held*, the statute and proclamation constituted a legal justification and excuse for defendant's refusal to perform, and no commissions could be recovered. *Damers* v. *Trident Fisheries Co.* (Me., 1920), 111 Atl. 418.

If performance of a contract becomes impossible or illegal by reason of a change in the law, the promisor is no longer bound. *American Mercantile Exch.* v. *Blunt*, 102 Me. 128; *Public Service Co.* v. *Public Utility Commrs.*, 87 N. J. L. 128; *Lowey* v. *Granite State Prov. Assn.*, 28 N. Y. Supp. 560; *Andrew Miller & Co.* v. *Taylor & Co.*, [1916] 1 K. B. 402. The law on this subject has been greatly augmented by litigation growing out of the war and its effect on the performance of contracts. It has been held that a party who becomes unable to perform a contract due to anticipatory war measures will be excused from further performance. *Foster* v. *Compagnie Française de Navigation à Vapeur*, 237 Fed. 858. Likewise, the outbreak of war, making illegal commercial intercourse with enemy countries, will excuse a vendor from delivering goods to an enemy subject. *Jager* v. *Toline*, [1916] 1 K. B. 939; *Edward Grey & Co.* v. *Toline* (1915), 31 Times L. R. 551. Or from delivering goods which were to be obtained from an enemy country. *Verthardt & Hall* v. *Rylands Bros.* (1917), 86 L. J. Ch. (N. S.) 604; *Cooper* v. *Neilson & Maxwell* (1919), Vict. L. R. 66; or to be manufactured in enemy territory. *Ross* v. *Shaw* (1917), 2 Ir. R. 367. For many other recent cases see note in 3 A. L. R. 11. In the instant case it was objected that the statute did not apply, having been made before the

contract was entered into. This would seem to be immaterial, since the statute was inoperative until the President's proclamation, which was after the contract was entered into but before its completion. If by this argument it is meant that both parties having known of the enactment at the time the arrangement was made, the vendor should thereby be deemed to have assumed the risk of procuring the Shipping Board's consent to a sale in case the statute should be called into effect, and agreed to pay the commissions in any event, the contention is unsound. This argument was made in an English case where the parties entered into an agreement for the sale of a quantity of aluminum to be shipped by the seller to a foreign company, at a time when to the knowledge of both parties there was a government prohibition of the export of aluminum except on license of the British government. It was held that the law would not impose an absolute obligation to do what the law forbade, and that the contract was subject to an implied condition that an export license could be obtained. *Anglo-Russian Traders* v. *John Butt & Co.*, [1917] 2 K. B. 679. The reasoning would apply equally well to the instant case. For a full discussion of many cases dealing with war-time impossibility of performance, see 18 MICH. L. REV. 589. See also 35 LAW Q. REV. 84; 38 CANADIAN LAW TIMES 86.

CHARITIES—APPLICATION "CY PRÈS."—Testator devised specific real property, including a hotel, in trust to sell part of the property, and operate the hotel in testator's name, and from the proceeds and profits raise a sinking fund for the permanent operation and improvement of the hotel, and thereafter to apply the funds to specific charities. After testator's death a modern hotel was erected in the same city and because of its competition testator's hotel could not be maintained and operated in the future at a profit or so as to provide an income for the charities designated. Plaintiff, heir at law of testator, claims that, in view of the changed conditions and circumstances, the provision in the will for the charities must fail, and therefore prays that a decree be entered vesting the title to the property in him. *Held*, the intention to give the funds to the charities specified will be given effect, though the mode prescribed cannot be followed. *Hodge* v. *Wellman* (Ia., 1920), 179 N. W. 534.

The doctrine of the *cy pres* application of charitable trusts, as a branch of the general equitable powers of a court of chancery, has been extensively recognized in some form throughout the United States. On the other hand, the doctrine has been wholly rejected in some states. See *Crim* v. *Williamson*, 180 Ala. 179; *Mars* v. *Gilbert*, 93 S. C. 455. Courts of equity favor gifts to charity, and in the jurisdictions which have adopted the *cy pres* doctrine the courts have held that if the mode pointed out in the will for carrying the gift into effect fails the court will provide another mode by which it may take effect. See *Jansen* v. *Godair* (Ill., 1920), 127 N. E. 97; *Adams* v. *Page*, 76 N. H. 96. In the latter case, where the testator's plan to provide a hospital for those living in a certain community had become impracticable by reason of the establishment of a similar institution by others, the court